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Three New Mass Torts Emerge in Philadelphia's Complex Litigation Docket, as Risperdal Cases Resolve

Trial attorney Thomas Kline said litigation over the weed-killer Roundup is "going to be the marquee in the program for the foreseeable future."

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A new slate of mass tort cases is gathering momentum in Philadelphia's Complex Litigation Center as the matters that dominated its docket in recent years approach resolution. The two largest matters in the program—one of the country's busiest hubs for mass tort litigation—are in various stages of winding down, and in recent months three new mass tort cases have emerged.

The vena cava and Risperdal litigation remain the largest two programs in the Complex Litigation Center, according to case listings on the court's website. But Feldman & Pinto's Rosemary Pinto, who serves as plaintiffs counsel in both matters, says parties are working to resolve the remaining cases in both programs.

The vena cava litigation has grown significantly in the past few years, expanding to 1,795 from its January 2020 inventory of 842. An October 2019 bellwether trial in the vena cava matter ended in a \$34 million verdict for the plaintiffs, and Pinto said the plaintiff win created an impetus for resolution. According to the matter's docket, the parties completed a settlement

conference in July.

The Risperdal litigation, which was once the largest mass tort in Philadelphia, has progressed even further along in its life cycle. The court website lists 1,196 cases in the litigation, a dramatic reduction from the 10,719 cases in January 2020.

Former Risperdal plaintiffs liaison counsel **Thomas Kline, of Kline & Specter, said the shrunken inventory came as a result of around 5,000 resolutions he and co-counsel at Sheller PC and Arnold & Itkin reached with the defendants, Johnson & Johnson and its pharmaceutical subsidiary Janssen Pharmaceuticals.**

Pinto, alongside Matthew Leckman of Leckman Law, took over as liaison counsel for Risperdal plaintiffs in February to handle the remaining cases.

Kline said his team resolved their clients' disputes shortly after the 2021 jury selection for one of a number of trial-ready cases. He said the defendants were motivated to settle after plaintiffs scored an \$8 billion verdict in 2019. A judge later reduced the verdict to \$6.8 million.

"Risperdal litigation for all intents and purposes has been resolved," said Tucker Law Group's Kenneth Murphy, who represented the Risperdal defendants when he was an attorney with Faegre Drinker Biddle & Reath. "There are some cases that are moving forward where plaintiffs chose not to participate in the global settlement," he said. Murphy said he is no longer involved in the litigation.

"It certainly is not the mass tort that's going to drive the complex litigation trial docket going forward, that's for sure," said Kline.

As for the next big thing, Kline said, "There's no doubt that Roundup is going to be the marquee in the program for the foreseeable future, in my considered opinion. ... I think it has currently the largest, the most progressively growing inventory."

Kline & Specter is tackling the Roundup litigation as part of the same trio of firms that made up its Risperdal team. Pinto, too, is a lead attorney on the case.

Kline said there are approximately 200 cases on the growing Roundup docket, so far all filed by Pennsylvania plaintiffs so as to avoid jurisdictional battles. He said the total potential size of the litigation could expand if the

plaintiffs emerge successful in jurisdiction disputes down the road. According to Kline, his firm represents “many thousands of Roundup victims” who have been screened for non-Hodgkin lymphoma, the injury allegedly linked to the weed killer.

Kline said his team is aiming to expedite discovery in the Roundup litigation with the goal of obtaining a trial listing in 2023.

Joseph Blum of Shook, Hardy & Bacon, defense liaison in the Roundup matter, said he expects the dispute to begin heating up around mid-fall.

Faegre Drinker’s Chanda Miller said the Complex Litigation Center saw a slowdown in petitions to create mass torts during the pandemic, but she said those petitions appear to be back to pre-COVID numbers.

According to Administrative Judge Lisette Shirdan-Harris of the Philadelphia Court of Common Pleas, there are 11 active mass tort programs in the Complex Litigation Center as of Aug. 2. The court formed the most recent three in the last three months, and both Miller and Kline said a petition is pending to create another mass tort for litigation involving the medication Elmiron.

In addition to the Roundup litigation, which was consolidated in May, the court formed mass torts for chemical compound paraquat in May and antacid Zantac in June. According to court data, there are currently 25 cases filed in the paraquat litigation and 94 in the Zantac litigation.

Motley Rice is heading the paraquat litigation, and Texas-based Watts Guerra is representing Zantac plaintiffs.